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ABSTRACT

This publication examines ways to teach about law in the liberal arts. This issue focuses on future voting rights issues by exploring the 2000 presidential election. Articles included are: "Voting Rights in the New Millennium" (Jason F. Kirksey); "Legal and Political Lessons from 'Bush v. Gore'" (David Schultz); "The Ford-Carter Commission and Federal Election Reform" (Ryan Coonerty); "Why Separate Is Not Equal and Other Lessons: Using Case Studies To Teach Constitutional History" (Patricia Hagler Minter); and "Was the Election of 2000 a Judicial Coup d'Etat? A Review of Three Books" (Matthew Holden, Jr.). The lead article (Kirksey) contains 15 references and cites 5 cases. The document concludes with an annotated list of 10 Web sites that focus on voting and election reform. (BT)

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Voting Rights Issues in the New Millennium.

John Paul Ryan, Editor

American Bar Association, Chicago, IL. Public Education Div.

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Voting Rights Issues in the New Millennium

by Jason F. Kirksey

> *"No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live."*
> (*Wesberry v. Sanders*, 376 U.S. 1 (1964), BLACK, J., Opinion of the Court)

The 2000 presidential election has become the political example of the proverbial "enigma wrapped in a riddle." The events that occurred on November 7, 2000, have emerged as one of the most recent examples of minority voters'–especially African Americans'–struggle to attain an effective right to vote (Parker, 1990). The "irregularities" that occurred in Florida on Election Day 2000 aroused memories of an unnerving era in the American political system. Consequently, the 2000 election in Florida appears to have become the most recent issue on a quarter-of-a-century-long agenda, in which African American citizens have sought equality and fairness in the world's strongest and most popular democracy.

The Voting Rights Act of 1965 (42 U.S.C. §§ 1973, amended in 1970, 1975, and 1982) (hereafter, VRA) was intended not only to provide equal access to the ballot box for African Americans but also to allow such a vote to be meaningful. The practicality of the act, however, continues to be challenged by state and local jurisdictions all over the country, including the state of Florida. Although the allegations of African Americans in the 2000 presidential election have caused a greater focus on minority voting rights, there is one electoral arena that continues to evade the values of fairness and equality, and once again Florida is at the center of this controversy.

The issue of whether judicial elections fall within the scope of the VRA was settled a decade ago by the United States Supreme Court. In 1991, the Court held in *Chisom v. Roemer* and *Houston Lawyers' Association (HLA) v. Attorney General of Texas* that state judges were in fact "*representatives*" under the meaning of the VRA. The Court's decision resulted in numerous lawsuits being filed by minority voters challenging the use of at-large judicial elections. Two such suits were filed in Florida.

The 2000 Election in Florida

As the presidential election hinged on the United States Supreme Court's decision in *Bush v. Gore* as to whether ballots in the state of Florida should be recounted, another very important issue simultaneously emerged. The 2000 presidential election in Florida witnessed the highest African American turnout in that state's history (Twomey, 2000). Despite the record turnout (an increase of approximately 350,000 voters from 1996), the election is quickly becoming recognized as a "throwback" to the 1960s. African American voters throughout Florida have reported illegal purges from voting rolls, unannounced movements of polling stations, police intimidation, and several other "irregularities" (Alpert, 2000; Cobb, 2000; Edsall, 2000; Fletcher, 2000; Gorov, 2000; Kellner, 2001; McCarthy, 2000; Navarro and Sengupta, 2000; Parker, 2000; Twomey, 2000; Usborne, 2000). While such allegations are certainly not new, the events surrounding the minority electorate, and African Americans in particular, in Florida during the 2000 presidential election raises a significant amount of concern above and beyond the infamous "butterfly" ballot and "hanging chads." This concern focuses on the future voting rights of African American and other racial and ethnic minority voters in Florida and beyond. The mechanisms alleged in Florida demonstrate the potential to disenfranchise voters in such a subtle manner as to be virtually undetectable.

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Legal and Political Lessons from *Bush v. Gore*

by David Schultz

The 2000 presidential elections were a failure. If elections are to bring voters together to make clear choices about what policies they support and which individual will lead the nation, the 2000 presidential elections failed–not just in Florida, but throughout the country. The 2000 elections failed to unite a heavily divided nation. Al Gore wins the popular vote; George Bush wins the Electoral College. Voters split dead even between the candidates, and maps revealed clear demographic, geographic, ideological, and partisan divisions in the electorate that fractured along race, class, gender, regional, religious, and a host of other variables. Half of all voters stayed at home, the Florida and United States Supreme Courts split, and of the 16 justices on these two courts, eight eventually sided with each candidate.

Florida ballot disputes represented a microcosm of the 2000 election debacle. For more than a month, chads and butterfly ballots were the topic *du jour,* as constitutional-law scholars, lawyers, pundits, and journalists debated whether the Florida or United States Supreme Court was correct, whether either should have intervened, and what the lasting legacy would be on American politics, elections, and the political legitimacy of the judiciary, let alone President Bush. One year later, the 2000 presidential election reveals that significant reform is needed in the way elections are run and, surprisingly, the *Bush v. Gore* litigation might very well be the major impetus for these changes.

Politics and Elections

The real choices that would affect the 2000 election were made well before the people voted that year. Early on, Gore and Bush were selected by their respective party elites–including wealthy donors, business leaders, and union officials–to be their candidates. Yes, McCain and Bradley made efforts to challenge them, but by March the primary season was already over. Polls suggested that over 85 percent of the American public had yet to begin paying attention to the presidential race, but by then it was already over. Both of the frontrunners, Bush and Gore, had employed pollsters to fine-tune their messages, and they had already raised tens of millions of dollars. McCain and Bradley–both vowing to change their parties and bring new voters into the fold–had no chance.

Ralph Nader was barred from participating in presidential debates because the Commission on Presidential Debates–a group significantly funded by major corporate money and supported by the two major political parties–*post hoc* decided to raise the threshold for participation in the debates from five to fifteen percent. Nader was even unceremoniously escorted out of the audience at one of the debates he sought to attend! When the debates did occur, the formats were nuanced and uninformative.

States also scripted the election. Advance registration (typically, 30 days or more) disenfranchised many college students and last-minute voters. Former felons are often barred for life from voting. With the war on drugs, racial profiling, and other injustices falling disproportionately hard on African Americans, millions of Americans nationwide were prevented from voting. Florida was the most egregious example. It bars for life ex-felons from voting. In 1999 and 2000 Florida undertook a systematic process to purge from the voting rosters not only individuals who were convicted of felonies in its own state, but also felons from other states who moved to Florida (this latter action violated a court order).

The Florida 2000 experience revealed dirty little secrets that occur in every election. "One person, one vote" does not guarantee that every vote will actually be counted. Voting technology and counting procedures are flawed. Ballots are not counted. Often the worst technology is confined to neighborhoods inhabited by the poor or people of color. In most elections the margin of victory is greater than the uncounted or spoiled ballots. But when the technology and rules are most needed to resolve a dispute, they fail. Florida also demonstrated how officials from the two major parties control local canvassing boards, thereby questioning the impartiality of election administrators and implicating a host of conflict-of-interest issues.

The Florida Supreme Court Rules

Once the disputes traveled to the courts, many expected the Florida Supreme Court to be a parochial, backwater southern court. In the first *Gore v. Bush* case, the high-priced lawyers for both candidates were mediocre but the Florida justices were well prepared, asked excellent questions, and produced a solid opinion in record time. While the U.S. Supreme Court stated it could not understand the basis of the Florida Supreme Court *Gore I*

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decision, an average law school student could. The decision was a textbook model in how to use statutory interpretation and state law to write an opinion. In constructing its remedy, the court first stated that the state legislature needed to act and that in lieu of that, it would fashion a temporary equitable remedy. This is a beautiful expression of judicial restraint.

The same was true in its second opinion. Again, there was a model use of statutory interpretation and, as in the first opinion, an effort to fashion appropriate remedies for the exigent circumstances. In both decisions the court also did something important–it erred on the side of democracy and the people. When in doubt, count the votes. This was neither a Republican nor a Democratic principle, and its decisions were not party determined. Instead, the decisions took seriously the constitutional right to vote and the right to have all people heard.

Finally, even though its second decision was split 4-3, the majority and dissenting opinions were respectful of one another. The justices did not vilify the other side; disagreement was pointed, not personal.

The U.S. Supreme Court Decides the 2000 Election

The United States Supreme Court could have learned from the justices in Florida. Whether in Justice Scalia's concurrence in the order staying the recount (where he essentially stated that this was a five-vote political decision) or in the bitter dissents in that case, the Supreme Court justices exhibited a lack of wisdom and restraint. Perhaps the U.S. Supreme Court was wrong to stay the recount because the normal grounds for a temporary restraining order were ignored. Perhaps the Court should have denied *certiorari* and let Congress settle the issue as the Constitution and federal law prescribe. Yet once the Court acted, the public respected the decision, supporting Justice Jackson who once stated about the Court: "We are final not because we are infallible, but we are infallible because we are final."

The Court misplayed politics. First, it accepted *certiorari* and then returned the case to the Florida Supreme Court. Then, it took the second case, stayed the recount, and issued an opinion stating that the recount must end because time had run out. The Equal Protection issue on which the Supreme Court eventually decided the case was before the Court in the first case, but it declined to hear the issue. Had the Court heard the claim then and decided the case, or had the Court instructed the Florida Supreme Court to address that issue (or had the Florida Supreme Court responded to the Supreme Court's first opinion more quickly), there would have been plenty of time for Florida to fashion recount standards. By delaying and issuing a cryptic first opinion that suggested that any effort by the Florida courts to act would be legislating, the Court's decision hemmed in the Florida Supreme Court, both in terms of time and in the ability to fashion a remedy. The Supreme Court simply misplayed its hand.

It is important to note that a 7-2 majority did create a new Equal Protection claim; nevertheless, the Justices limited its application to that case, thereby again calling into question whether their decision was based on neutral principles or politics. If it is precedent, it portends interesting possibilities that the Fourteenth Amendment and the Voting Rights Act can now be used to question voting procedures, operations, and counting in ways not thought of before. The long-term impact for fair elections and voting rights is tremendous, and that is a clear victory for elections.

Contrary to assertions by many that the Court damaged itself by the opinion and that it decided the election, subsequent data refute that. A recount by a consortium of newspapers, including the *New York Times* and the *Wall Street Journal*, indicate that had Gore prevailed in his legal strategy, the recount would have still made Bush the winner. The same study indicated that a statewide recount might have produced a different result. Yet a fair election, one complying with the Voting Rights Act, might have produced other results. Polling data suggest that American confidence in the Supreme Court remains unshaken–more than 50 percent still express a great deal of confidence in the institution.

Lessons

The first lesson from the 2000 presidential election is that we do not take elections seriously in this country. Big money corrupts elections, debates are run by corporations that exclude third parties, and our staffing of elections and the way we vote and tabulate results suggest that elections are not that important. Throughout the Florida litigation, the media wanted to say there was a constitutional crisis. There may have been an election crisis, perhaps an institutional crisis, but no constitutional crisis.

The 2000 elections demonstrate that national federal standards for ballots and voting are required. This includes a uniform national ballot, registration and eligibility standards consistent across the nation, and identical voting and tabulation technology in all precincts.

Second, a revamping of the primary election process is overdue. Currently, each state wants to be the first to hold a primary, thereby pushing primaries earlier and, as a result, favoring the big name and well-heeled candidates.

Third, campaign finance reform is imperative. A McCain-Feingold ban on soft money and a revamping of the presidential public financing system should mandate that candidates participate in real debates as a condition of receiving public funds. Tightening of federal laws to bar corporate and union money is essential, and the Federal Communications Commission needs to move toward mandating that candidates receive a reasonable amount of free, or reduced-cost, time on the public airwaves to deliver their messages.

Fourth, the *raison d'etre* for the Electoral College has passed. Its original value in protecting small states, overcoming regionalism, and using electors as wise checks upon the people is long over. This institution hurts third party candidates, inhibits turnout, churns confusion, and makes a national issue–the selection of a president–essentially an artifact of state politics.

Finally, even though the Supreme Court held that *Bush v. Gore II* only applied to the case at hand, the decision potentially could shake up elections across the nation. No longer will the "intent of the voter" standard work. The Equal Protection claim used to invalidate the counting procedures in Florida could also be wielded to declare that differences in technology, ballot access, and registration procedures around the country are unconstitutional, necessitating reforms if Congress does not act. Like it or not, the courts may again have to enter the "political thicket," suggesting that courts themselves may actually turn out to be the institutional winners here.

The Ford-Carter Commission and Federal Election Reform

by Ryan Coonerty

Although it seems long ago, the 2000 presidential election was a political ordeal that tested our electoral system unlike any other in living memory. From November 7 to December 12, 2000, the outcome of the presidential election was fought in bitter legal and political struggles. The ordinary institutions of election administration in the United States, and specifically in Florida, could not readily cope with an extremely close election. Many aspects of the election processes were put under a microscope and inspected by an anxious nation. With dismay and growing anger, we saw controversial ballot designs; antiquated and error-prone voting equipment; subjective and capricious processes for counting votes; voter rolls that let unqualified voters vote in some counties and turned away qualified voters in others; confusion in the treatment of overseas and military ballots; and a political process subjected to protracted litigation.

Looking beyond Florida, the picture became no more encouraging. The chief election official of the state of Georgia, Cathy Cox, testified to our commission, "As the presidential election drama unfolded in Florida last November, one thought was foremost in my mind: there but for the grace of God go I. Because the truth is, if the presidential margin had been razor thin in Georgia and if our election systems had undergone the same microscopic scrutiny that Florida endured, we would have fared no better. In many respects, we might have fared even worse." Across America, we heard from officials who felt the same way.

Looking to the future, former Presidents Gerald Ford and Jimmy Carter, former Senator Howard Baker, and former White House Counsel Lloyd Cutler formed the National Commission on Federal Election Reform (Baker later resigned when appointed ambassador to Japan and was replaced by former House Minority Leader Bob Michel). The commission was privately funded by the Hewlett, Packard and Knight foundations to ensure that it could work quickly and be unencumbered by political pressures. Additionally, the commission is run on a day-to-day basis by the Miller Center of Public Affairs at the University of Virginia and the Century Foundation, nonpartisan institutions with long records of developing public policy. Its mission was simple: develop recommendations to ensure that the administration and determination of our elections are fair, accurate, and just.

The cornerstone of the report is a statewide voter registration database.

Our co-chairs asked a diverse group of outstanding individuals to join the commission and spend a year investigating American democratic processes at every level. These seventeen commissioners came from every region of the country and had diverse political affiliations and professional and personal backgrounds. Commission members heard testimony in four public hearings from more than fifty election administrators, civil rights groups, scholars, and concerned citizens. The commission also organized three task forces to study specific issues in election administration, law, and the history of election reform. The task force coordinators spoke with several hundred experts and looked explicitly at voter registration, access for the disabled, and constitutional questions in election reform.

The commission found many problems in our nation's electoral systems, but there was also good news. Spurred by the events of last year, election reform has returned to the legislative agenda in many states, notably Florida and Georgia. In much of the country, able and dedicated election administrators are in place to implement reforms. In a world of problems that often defy any solutions, the weaknesses in election administration are largely problems that government can solve.

With that optimism, both Republicans and Democrats on the commission sought bipartisan solutions consistent with the historical development of America's electoral system. The commission believes that when the American people choose their president, vice president, and members of Congress, voters should expect all levels of government to provide a democratic process that maintains an accurate list of citizens who are qualified to vote, encourages every eligible voter to participate effectively, uses equipment that reliably clarifies and registers the voter's choices, handles close elections in a foreseeable and fair way, operates with equal effectiveness for every citizen and every community, and reflects limited but responsible federal participation.

Democracy is a precious birthright for Americans, but each generation must nourish and improve the processes of democracy for its successors. The commission envisioned a country where each state maintains accurate, computerized voting lists that are networked with local administrators. Using that system, qualified voters in our mobile society would be able to vote throughout their state, without being turned away from polls because of local administrative problems. Millions of military and overseas voters would find it easier to receive and return their ballots. Election day would be held on a national holiday, freeing up more people to serve as poll workers and making polling places more accessible. Voting equipment would meet a common standard of excellent performance. Each state would have uniform, objective definitions of what constitutes a vote. News organizations would exert necessary restraint in predicting election outcomes. Every jurisdiction and every official would obey the Voting Rights Act and other statutes that secure the franchise and prohibit discrimination. And there would be a delicate balance of shared responsibilities between levels of government and between officials and the voters they serve.

From that vision, the commission outlined 13 recommendations in a report

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warmly received by President Bush in a Rose Garden ceremony at the end of July. The recommendations included a statewide voter registration database; provisional ballots; simplified procedures for uniformed and overseas voters; benchmarks and standards for voting systems, including clear definitions of what constitutes a vote on each kind of equipment; the creation of a new federal election agency responsible for administering grants and setting voluntary standards; restoration of voting rights for felons after they have served their full sentence (including probation); and federal investment to capitalize state revolving funds that will provide long-term assistance to election administrators.

The Need for a Statewide Voter Registration Database

The cornerstone of the commission's report is a statewide voter registration database, and it goes a long way toward explaining the need, practicality, and bipartisan nature of our commission's report. This is because one of the most serious problems with America's elections is also one of the most basic–identifying who can vote. For some, this is a problem of disfranchisement; for others, this is a problem of the integrity of the voting system.

The issue of voter lists now has well-drawn battle lines. Some argue that the "purging" of voter lists has been used to push minority voters off the rolls. Others argue that "list maintenance" is essential to preventing fraud. Regardless of one's position, there is no disagreement that voter lists are swollen with large numbers of named voters who have moved, died, or are otherwise no longer eligible to vote in the local jurisdiction where they are registered. For example, in Oklahoma, which gathered statewide data from its unitary election system, 25 percent of the voters on its rolls are inactive. A number of other jurisdictions have compared their lists to census numbers and observed that they have thousands, sometimes ten of thousands, more registered voters than people.

There are some who contend that swollen voter rolls are harmless, since the individuals have moved or died and therefore do not vote, and since poll worker scrutiny and signature verification can prevent fraud. Our commission disagreed for three reasons: (1) Significantly inaccurate voter lists add millions of dollars in unnecessary costs to already under-funded election administrators and undermine public confidence in the integrity of the election system; (2) significantly inaccurate voter lists invite schemes that use "empty" names on voter lists for ballot-box stuffing, ghost voting, or soliciting "repeaters" to use such available names; the opportunities to commit such frauds are actually growing because of the trend toward more permissive absentee voting; and (3) significantly inaccurate voter lists often penalize poor or ill-educated voters; among the most mobile citizens in the country, these voters find that even modest residential changes within a state or county will keep them from appearing on the list of eligible voters at their new residence.

Rather than take a side in this ongoing partisan argument, the commission proposed to fix the problem in a way that breaks from the old controversies over "purging." Implementing statewide computerized databases similar to ones utilized by Michigan and Kentucky will allow every state's voter registration lists to be more accurate and transparent. A statewide database, tied to the department of motor vehicles and other social service agencies, will ensure that the rolls are more accurate and also keep the core constitutional responsibility for voter registration in the hands of state governments. In-precinct provisional ballots, which allow voters to cast a ballot if they believe they have been incorrectly removed from or never added to the database, can occur only under this system. A statewide registration system is also more transparent and accountable to outside scrutiny and will be less susceptible to fraud. That is why this recommendation has been at the heart of almost every group that has studied the problems in our election systems, including the United States Commission on Civil Rights, the Cal-Tech MIT Project, the FEC, and the Election Center.

Prospects for Reform

Despite the bipartisan practical recommendations from our commission and others, the momentum generated in the wake of the 2000 election quickly began to wane. Election reform legislation faces many obstacles. Early attempts bumped up against lawmakers' perceived and real political considerations. Commissions such as ours are often seen but not heard. Then came budget shortfalls and the September 11 attacks.

Despite these impediments, election reform continues to inch forward at the federal level. Congress has an opportunity to take a giant step toward meaningful reform by passing the Help America Vote Act, sponsored by Congressman Bob Ney (R-OH) and Steny Hoyer (D-MD). The act is a bipartisan, fair, and effective solution to a problem that can and must be fixed. Nevertheless, the Ney-Hoyer bill is not perfect. It does not include some of the suggestions made by our commission (primarily, recommendations to make election day a holiday and encourage the news media not to project winners before all polls have closed). However, this legislation would create a genuinely national framework for the administration of elections for the first time in the history of the United States. It would create the first federal partnership with state and local governments in paying for the machinery of democracy. It would transform the voter registration systems, voting procedures, and voting systems in virtually every county in America. In the words of the commission co-chairs, Presidents Ford and Carter and Messrs. Michel and Cutler, the Help America Vote Act "could provide the most important improvements in our democratic election system in our lifetimes (with the exception of the Civil Rights Laws of the 1960s)."

Even if meaningful election reform is passed and signed into law early next year, the work is not complete. State and local election administrators must be innovative and committed to continually improving their systems. And most importantly, we as citizens must work actively to ensure that our political process is one that every American can believe in and that serves as a model for the rest of the world.

Further Information on the National Commission

The National Commission's extensive web site can be found at www.reformelections.org. Included on the site are a full listing of the commission members, transcripts and video archives from the commission's four public hearings, the Final Report issued July 31, 2001, and the individual reports of the commission's three task forces.

Voting Rights *continued from page 1*

One allegation regarding the 2000 election in Florida appears to have significantly impacted the influence of the African American vote. The number of "spoiled" ballots in the election has raised substantial concerns about Florida's election procedures. Spoiled ballots are ballots that are cast in an election but are not counted for any number of reasons, including an "overvote" or an "undervote."[1] An analysis conducted on behalf of the United States Commission on Civil Rights (USCCR) found a consistent relationship between the number of African American registered voters and the ballot spoilage rate.[2] In other words, the higher the African American population, the higher the likelihood that ballots would be spoiled. The statewide ballot spoilage rate was approximately 180,000 ballots or 2.9 percent of 6,072,116 ballots cast.[3] The USCCR analysis estimated that the spoiled ballot rate among African American voters statewide in the 2000 election was 14.4 percent compared to 1.6 percent among non-African Americans (110–113). Examining overvotes illuminates the magnitude of this estimated racial disparity. The statewide analysis of overvotes estimated a rejection rate of 12 percent among African American voters compared to a 0.6 percent rate among non-African Americans. These empirical analyses appear to provide evidence for the existence of (at a minimum) an odd coincidence in a state that has a long history of discriminatory treatment of African Americans.

Electoral Reforms

Electoral reforms are occurring all over the country; however, altering ballot structures or even voting methods will only address some of the alleged "irregularities" that occurred in Florida. Many of the subtle disenfranchising mechanisms alleged in the 2000 election are immune to reform. For example, changing from an office-bloc "butterfly" ballot to a party-column (or strip) ballot and employing an optical scan voting method would have a minimal effect on moving a polling station or illegally purging voters. Allowing provisional ballots eliminates any problem of illegally purging voters. Florida recently enacted legislation allowing the use of provisional ballots. As of December 2001, 26 states allow provisional ballots.[4]

There are certainly some simple solutions to address the concerns of African Americans regarding their future voting rights, not only in Florida but in all states. The solution that requires no legislative action of any kind is to vigorously enforce existing voting laws such as the Voting Rights Act. Currently only 5 of Florida's 67 counties (Collier, Hardee, Hendry, Hillsborough, and Monroe) are covered under section 5 of the Act.[5] The allegations surrounding the 2000 election in Florida appear to necessitate some exploration of applying the provisions of section 5 of the VRA to the entire state or at least to those noncovered counties where the most egregious claims occurred and have not been refuted by election officials. The state of Florida and the federal government have a number of options to safeguard the "inalienable" right of all eligible citizens to engage in the most treasured privilege in the American democratic process, voting. The question is whether any remedial action will occur.

Twenty-six states now allow the casting of provisional ballots.

The Voting Rights Act and Judicial Selection

The 2000 election is not the only recent alleged attempt to disenfranchise the African American electorate in Florida. During the past decade, Florida has defended electoral arrangements in judicial elections that have been empirically proven to result in the "effective" disenfranchisement of its African American electorate.

In 1961, less than one percent of the nation's judges were African American. By 1992, only three percent of the judges at all levels of state judiciaries were African American (Washington, 1994: xi). One explanation for the substantial under-representation of African Americans and other racial and ethnic minorities in these positions is the use of at-large election systems to fill seats on multimember trial and appellate courts. Election systems used to elect state court judges have come under attack in recent years, primarily as a result of the growing concern over the under-representation of minorities in these offices. In *Nipper v. Chiles* and *Davis v. Chiles*, African Americans challenged the method of election for judges in Florida.

Electoral "subdistricts," within the overall judicial district, have been the remedy imposed when courts found judicial election systems to be dilutive. The adoption of these geographical subdistricts has resulted in an increase in the number of African Americans elected to judgeships (Engstrom, 1992; McDuff, 1993); it has also led to questions regarding how the presence of judges elected from subdistricts will impact the institution of justice.

Defendant jurisdictions, including Florida, argued that the use of subdistricts to elect judges would be detrimental to the judicial system. The judges in the Florida cases seemed receptive to this argument. Despite the absence of any empirical evidence to support the state's argument, and in spite of evidence demonstrating minority vote dilution, the African American plaintiffs did not prevail. In *Nipper*, after finding that the system used in the Fourth Judicial Circuit and Duval County Court was in fact dilutive, Chief Judge Gerald B. Tjoflat still concluded: "In sum, because none of the remedies the appellants propose [including subdistricts] could be implemented without undermining the administration of justice in the courts .... the appellants are not entitled to relief under section 2 of the Voting Rights Act" (589).

These concerns about the behavior of judges elected from subdistricts have yet to be substantiated with any evidence. As the dissenting judges in *Nipper* noted: "After finding a violation of the Act .... the majority opinion relies almost entirely upon *speculation* and *conjecture* to support its holding that Florida's interest in conserving its current at-large voting system precludes any possible remedy the appellants or the district court can devise" (600–601). The notion that "speculation and conjecture" take precedence over the rights of African American voters is disconcerting. So are the allegations of a "systematic" attempt to disenfranchise a significant portion of the African American electorate in Florida (Navarro and Sengupta, 2000). Thus, there is basis for concern regarding the state of voting rights in Florida.

Conclusion

Despite the anticipation of a more egalitarian social, economic, and political system, the arrival of the new millennium has brought many of the same voting rights struggles. The alleged improprieties in the 2000 election in Florida are not a new phenomenon; the magnitude of the "irregularities" reveals a need to maintain and strengthen existing voting rights protections.

Although elections in Florida over the past decade[6] have revitalized concerns about the voting rights of African American and other racial and ethnic minority citizens, there are broader implications. One implication is the very legitimacy of the American democratic system. Certainly, the potential for every eligible citizen to become part of the American electorate is an overarching egalitarian value that must be pursued by the major governmental institutions in America.

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Nipper v. Chiles (No. 90-447-CIV-J-16 M.D. Fla.)

Endnotes

[1]An overvote is voting for more than one candidate for an office on a ballot when only a single vote is permitted. An undervote is failing to cast a vote for any candidates for an office on a ballot or a vote for a candidate that a voting device erroneously does not count.

[2]U.S. Commission on Civil Rights Report: "Voting Irregularities in Florida During the 2000 Presidential Election," pp. 106–119 (hereafter cited as USCCR, "Voting Irregularities in Florida During the 2000 Presidential Election").

[3]This is the number cited by the Court in *Bush v. Gore* (p. 3, J. Stevens, Dissenting opinion), but the Federal Election Commission reports a total turnout of 5,963,110.

[4]The term used for these ballots differs across the states (e.g., "challenge," "question," "special," "conditional," or "fail safe"). South Dakota has an "emergency voting card." In Colorado, Kentucky, Illinois, Louisiana, Michigan, Mississippi, New York, and Texas, individuals are required to sign an affidavit to cast a provisional ballot. Idaho, Maine, Minnesota, New Hampshire, Wisconsin, and Wyoming have same-day registration. North Dakota has no voter registration (National Conference of State Legislatures, July 2001).

[5]U.S. Department of Justice, Civil Rights Division: http://www.usdoj.gov/crt/voting (January, 2002).

[6]During the past decade seven lawsuits involving the civil or voting rights of minorities were filed in Florida (Navarro and Sengupta, 2000).

Why Separate Is Not Equal and Other Lessons: Using Case Studies to Teach Constitutional History

by Patricia Hagler Minter

Imagine walking into a classroom filled with undergraduates on the first or second day of a new semester, a weighty tome in your hand. After handing out the course syllabus and discussing the rules and regulations of the class, picture yourself announcing to the undergraduate throng, "Guess what? You're going to spend the first three weeks of the semester reading a 700-page book." This is what I do every spring in my upper-division course, American Legal History Since 1865. The book is Richard Kluger's *Simple Justice*, his detailed history of the *Brown v. Board of Education* decision. The task is teaching the case law and the legal history of race from the infamous *Plessy v. Ferguson* decision in 1896 to the Supreme Court's greatly lauded 1954 ruling in *Brown*.

This article discusses two central issues: teaching case law to undergraduates and placing these precedents in historical context. I am a legal historian, and I teach a year-long survey of U.S. legal and constitutional history, which sadly is becoming a less common offering in history departments in the United States. Of all the courses in my repertoire, this assignment for the second half of legal history is by far my favorite. It is designed to teach students not only how to read case law and comprehend legal rules, but also to show them how to interpret these primary sources within their historical context. This approach also allows me to introduce students to some basic principles of jurisprudence, one of my major interests that is interspersed heavily into the lectures during this three-week reading period. For several years, I have devoted approximately one-fourth of the semester to teaching not only the case law from *Plessy* to *Brown* but also the origins of the "separate but equal" doctrine and the framing of the Fourteenth Amendment. The adrenaline rush that students experience plowing through this lengthy study of the law of race from the Civil War to the mid-twentieth century provides the intellectual backdrop for the entire semester.

In addition to reading Kluger's book and participating in classroom discussions on the subject, students have a writing assignment. I have used several topics, but the following have been the most successful. One assignment asked them to write about the framing of the Fourteenth Amendment and then to analyze the efforts of attorneys for both sides in *Brown* to research the debates during the drafting process in order to discover the original intent of the framers. They are asked not only to discuss what the lawyers for both sides found in the historical record, but also (and this is the more important question): What does the Warren Court ultimately do with this scholarship? This essay helps students focus on research and the uses and misuses of history, and it introduces them to the debate on the validity of "original intent" jurisprudence.

Undergraduates suffer from "presentism" in their understanding of civil rights.

Another topic asks them to describe and analyze the NAACP's legal strategy to destroy Jim Crow in the South. This assignment proved to be an excellent way to teach students about the contingency of history—that lawyers made choices, and some choices worked while some did not, and all of these choices affected the ultimate outcome. This was a good antidote to the triumphant histories of the consensus school, which unfortunately have reinforced our students' own tendencies to believe that the good guys always win, or that the winners are always the good guys.

These paper topics reflect my teaching methodology on the origins of the separate-but-equal doctrine and the road from *Plessy* to *Brown*. While students busily read Kluger during the first three weeks of class, I explain the legal history of race relations after the Civil War. Lectures begin with the framing of the Civil Rights Act of 1866 and the framing of the Fourteenth and Fifteenth Amendments. I pay particular attention to the debates on framing Section 1 of the Fourteenth Amendment, asking the students to read several drafts of that section, as the phrasing changes from "persons" to "citizens." We wrestle with language, discussing what "no state shall ..." means, and how each subsequent draft changes the possible interpretations of the amendment. Contemporary undergraduates suffer from "presentism" in their understanding of civil rights, thinking that our current definition has always applied. We discuss nineteenth-century conceptions of civil, political, and social rights, which lead back into our discussion of the Fourteenth and Fifteenth Amendments—which rights they guarantee, and which they do not.

Finally, we move on to the canon of case law. Starting with the *Slaughterhouse Cases*, moving on to *U.S. v. Cruikshank* and *U.S. v. Reese*, and finishing with the *Civil Rights Cases*, students wrestle with the Supreme Court's first rulings on the Fourteenth and Fifteenth Amendments. These cases usually provoke an angry response from the class, as the Court narrows the scope of the amendments in such a way that they offer little promise of equal justice under law for African Americans. There is always great interest in Justice John Marshall Harlan's dissent in the *Civil Rights Cases* because of his later dissent in *Plessy*.

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We are now ready to tackle the separate-but-equal question. Our discussion of *Plessy* usually takes an entire class period, and I also assign *Roberts v. City of Boston* (a Massachusetts state decision from 1849) to accompany it, since in his majority opinion Justice Henry Brown refers to it as the first separate-but-equal case. This frequently provokes a lively debate on the use of an antebellum state precedent to justify a state segregation law after the ratification of the Fourteenth Amendment; students find Justice Brown's reasoning, at best, tortured on this point. There is always great approval for the Harlan dissent, and having finished Kluger by this time, the students are well equipped to discuss the evolution of the separate-but-equal doctrine in its nineteenth-century context. This discussion is particularly good if I have several students who took the first half of the class, in which we dissect the infamous *Dred Scott* opinion. Students enjoy debating which opinion was worse, both in its jurisprudence and in its impact on society.

After one more lecture on the road to *Brown* in the twentieth century, the big day finally arrives. We now spend another class discussing the death of the separate-but-equal doctrine. After they have already written their papers, the students discuss at great length the NAACP's legal strategy, the "direct attack" that took decades, Charles Houston's higher education strategy, starting with graduate and professional schools (culminating in *Sweatt v. Painter*), and, finally, the attack on gross inequalities in the public schools. Much of this litigation resulted in victory for the NAACP lawyers who led the charge, but we also discuss the pitfalls of this strategy.

After this initial journey into the demise of the separate-but-equal doctrine, the class revisits the issue again toward the end of the semester, when we reach the Warren Court. At this point, our discussion turns in a different direction. I now ask the students to think about *Brown* and its aftermath in the context of legal liberalism. It is a good opportunity to wrestle with jurisprudence: Is this realism? Is it sociological jurisprudence? And most perplexing for undergraduates, did *Brown* really reverse *Plessy* at all, or did it do something entirely different?

During the last few weeks of the semester, as we move through the jurisprudence of the Warren and Burger Courts against the backdrop of a rapidly changing America, students wrestle with the aftermath of *Brown*. Although their tendency is to believe that the end of legalized racial separation came with the passage of the Civil Rights Act of 1964, which then fixed all of the nation's problems with race, they are forced to wrestle with the question of why everything didn't go smoothly after *Brown*. Was the famous decision really countermajoritarian, provoking a white majoritarian backlash and a reinvention of states' rights jurisprudence? Or did white southern lawmakers sell this "government-by-judiciary" idea to an American public that was, in fact, ready to end Jim Crow or at least indifferent to its death? Was there, to borrow from *Brown II*, too much "deliberate" and not enough "speed"? These are difficult questions, and new interpretations from scholars such as Michael Klarman, Mary Dudziak, and James T. Patterson (see "Classroom Resources") can provide students with some nuanced analysis for discussion.

The post-*Brown* debate on affirmative action and race ends the course, and students once again discover that the path to equal justice under law is not an easy one. Many current college students experienced busing, so they find decisions such as *Swann v. Charlotte-Mecklenburg Board of Education* fascinating. When a federal judge recently released the Charlotte public schools from the court order mandating busing, the class had a spirited debate about whether this would result in a reversion to *de facto* segregation based on residential patterns. Affirmative action cases are more troubling for them. In a discussion of affirmative action involving employment (*Johnson v. Santa Clara County*) or federal contracts (*Adarand Constructors v. Pena*), students expressed hostility to the idea that equal protection extended to economic issues—views that would bring smiles to the faces of nineteenth-century Formalists. By contrast, they saw *Bakke* as the logical extension of the promise of *Brown* to level the educational playing field. Denouncing the Fifth Circuit's *Hopwood* decision in Texas as wrong, the best students made the connection back to *Sweatt*.

My experiences leading students on the road from *Plessy* to *Brown* have reinforced my belief that legal and constitutional history can teach students about the interactions of law and society that they would not otherwise see. My students are predominantly (but not exclusively) white, middle-class, and conservative. For most of them at the start of the semester, the Civil Rights Movement is something that is complete and very much a part of the past, not the present. Most of the white male students believe that there is equal justice under law; white females and people of color usually, but not always, take issue with them, their evidence taking the form of personal anecdotes instead of societal observations. By the end of our discussion of legal history from *Plessy* to the aftermath of *Brown*, they have a better understanding of the complexity of the questions about race and law. Equally important, the students possess the analytical tools to utilize case studies not as precedents to be memorized, but as vignettes that demonstrate the process of change over time in American history and law.

Classroom Resources

Possible Texts: Richard Kluger, *Simple Justice: The History of Brown v. Board of Education and Black America's Struggle for Equality* (New York: Random House, 1977); Mark Tushnet, *The NAACP's Legal Strategy Against Segregated Education, 1925–1950* (Chapel Hill: The University of North Carolina Press, 1987). Brook Thomas (ed.), *Plessy v. Ferguson* (New York: Bedford/St. Martin's Press, 1996) and Waldo E. Martin (ed.), *Brown v. Board of Education* (New York: Bedford/St. Martin's Press, 1998) are short volumes designed for undergraduate teaching; both books feature good introductions and relevant historical documents. Michael J. Klarman, "How *Brown* Changed Race Relations: The Backlash Thesis," in 81, *The Journal of American History* (June 1994), is an excellent revisionist study that also provides students with an introduction to the countermajoritarian question. Mary Dudziak, *Cold War Civil Rights* (Princeton, N.J.: Princeton University Press, 2000) makes an important connection between federal anti-communism policies and federal responses to civil rights activities. James T. Patterson, *Brown v. Board of Education: A Civil Rights Milestone and Its Troubled Legacy* (New York: Oxford University Press, 2001) is the most complete synthesis of the aftermath of *Brown*.

Was the Election of 2000 a Judicial Coup d'Etat?: A Review of Three Books

by Matthew Holden, Jr.

Overtime! The Election 2000 Thriller by Larry J. Sabato (Editor). New York: Longman, 2001. 237 pp. Paper $19.95. ISBN: 0-321-10028-X.

The Unfinished Election of 2000 by Jack N. Rakove (Editor). New York: Basic Books, 2001. 266 pp. Cloth $25.00. ISBN: 0-465-06837-5.

Breaking the Deadlock: The 2000 Election, the Constitution, and the Courts by Richard A. Posner. Princeton, N.J.: Princeton University Press, 2001. 266 pp. Cloth $24.95. ISBN: 0-691-09073-4.

Three books under review here, fascinating for different reasons, each help us grasp the roles of "law" and of "politics" in the election of 2000. Already, though, as Judge Richard A. Posner forecast, there has been "ever-diminishing public interest in the fine points of the electoral deadlock" (Posner, 166). There is some irony, of course. Osama bin Laden is part of the answer. Hardly anyone wants to risk calling into question the legitimacy of an American president faced with a war on terrorism.

Yet the war against al-Qaeda cannot negate that there is a basic governmental process, including an electoral process. The electoral process, sometimes as reasonably clean and open as people know how to make it, and sometimes corrupted in various ways, has never been interrupted since 1788. Its nature will be tested in new circumstances, and the election of 2000 will contribute to the realities. The dominant question for this reviewer is whether the election of 2000 amounted to a judicial coup d'etat. The question may be unsettling, as the term "coup" is usually thought to be something "nasty," practiced by foreigners with little or no tradition of democracy. In the last third of the twentieth century, it was refined to mean "infiltration and subversion of [at least] a small but critical part of the security forces ... while much of the rest is totally neutralized" (see Edward N. Luttwak, *The Coup d'Etat: A Practical Handbook*. New York: Alfred A. Knopf, 1969, vii.).

The Supreme Court is not analogous to "security forces," yet there is something problematic. The three books at hand provide some perspective. The first book, *Overtime! The Election 2000 Thriller*, is edited by my University of Virginia colleague, Larry J. Sabato. By his unique influence on politicians and journalists, Sabato is himself a political phenomenon and not merely a student of political phenomena. *Overtime* has the combination of drama and practical detail that is his specialty. The book as a whole offers a descriptive set of accounts of campaigns and campaign strategies (chapters by Tom Fiedler, Larry J. Sabato and Joshua J. Scott, and Charles Babington), the media (Timothy J. Burge, Diana Owen, and Jake Tapper), and overviews of the election itself (Larry J. Sabato and Rhodes Cook).

For the main question in this review, teachers and students should find particular value in the contending legal gladiators' accounts of how they laid out the cases for their respective clients. Ronald A. Klain and Jeremy B. Bash ("The Labor of Sisyphus: The Gore Recount Perspective," in Sabato, 157-176) emphasize what they regard as two facts: "More people left the polls in Florida on Election Day believing they had voted for Al Gore than for George Bush, and nonetheless, Florida's 25 electors were awarded to Bush, who as a result, won the presidency." Their account of the second fact is that it occurred "because of a combination of avoidable voter mistakes, ruthlessly partisan tactics by Florida election officials, and, ultimately, an inability and unwillingness of the courts to rectify these wrongs" (158).

Klain and Bash differ from those who say "We were robbed by the U.S. Supreme Court." That, they say, is a "one-dimensional analysis" that "ignores all the other events and actions that created the circumstances that made the Supreme Court's stay and ultimate ruling decisive: the obstruction by Secretary of State Harris; the deliberate application of an incorrect tabulation standard in Palm Beach County; the illegal abandonment of the recount in Miami-Dade County; the persistent effort by the Bush campaign to block any counting of any votes; and so on."

George J. Terwilliger, III ("A Campout for Lawyers: The Bush Recount Perspective," in Sabato, 177-207), puts forth the alternative view for the Bush team. Terwilliger's account, which contains some interesting notes on how he personally came to know the Bush family and became involved in the litigation, is complex (as is that of Klain and Bash), but its outlines can be summarized simply. The big problem was the complexity of Florida's election laws. "As we reviewed Florida's election laws, it quickly became apparent that there were substantial uncertainties and ambiguities in the language. The more one tried to look ahead and chart factual scenarios of what could develop, the more difficult it became to analyze the law. It was unclear exactly what the procedures would be and what the standards were for those proceedings" (184). In this, Terwilliger represents that there was one legal point not in dispute–a point disputed both by Klain and Bash and by other commentators–which was that "But one crucial factor was crystal clear in the Florida code. A timetable and deadlines existed for local and state officials in tabulating votes and certifying the outcome of the election" (185). The Bush team's insistence on this view is, of course, part of what Klain and Bash are referring to in their claim about "the other events and

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actions that created the circumstances, [including] the persistent effort by the Bush campaign to block any counting of any votes . . . that made the Supreme Court's stay and ultimate ruling decisive." Terwilliger puts forth the view that the Florida courts violated the law, a point vigorously denied by Larry Kramer (to whom I turn below), thereby necessitating the Supreme Court's decision.

Jack N. Rakove's *The Unfinished Election of 2000* is historically oriented, though its authors are a political scientist (Henry Brady), three lawyers (Stephen Holmes, Larry D. Kramer, and Pamela Karlan), two historians (John Milton Cooper, Jr., and Alexander Keyssar), and Rakove himself, who is a historian of great distinction who also has standing as a professor in a political science department. The election of 2000, says Rakove, remains *unfinished* because of what it reveals about our politics, our institutions, and perhaps even the Constitution itself (Rakove, xiv). For the purposes of this review, I must bypass the excellent chapters by John Milton Cooper, Jr., by Henry E. Brady, and by Alexander Keyssar.

On my main question, the lawyer contributors say the Court did the wrong thing, and for the wrong reasons. In "Equal Protection: *Bush v. Gore* and the Making of a Precedent," Pamela S. Karlan dissects the Equal Protection argument on which the Supreme Court majority relied. In "The Supreme Court in Politics," Larry D. Kramer develops the most challenging chapter of the book. Kramer says that "working through the case chronologically, retracing each step as if without foreknowledge of what came later, suggests a different and more plausible explanation, one that acquits the justices of the charges of staging a coup, but only by interpreting their conduct in a way that is just as alarming." Kramer quotes the U.S. Supreme Court: "The Supreme Court of Florida has said that the legislature intended the State's electors to participate fully in the federal electoral process, as provided in 3 U. S. C., #5" (Kramer, in Rakove, 148). For that, December 12 was the mandatory deadline. Kramer continues: "Make no mistake: This is nothing less than a deliberate, bold-faced lie, for the justices knew perfectly well that the Florida court had said no such thing" (Kramer, in Rakove, 149). However, the Supreme Court majority had to have some federal basis to oversee a state court's interpretation of state law. "If Florida law was unsettled, the Court was constitutionally required to return the case to Florida. Having determined to prevent that at all costs, the justices in the majority had no choice but to offer this pathetic, cynical claim to be following the lead of the Florida Supreme Court" (Kramer, in Rakove, 149).

The Supreme Court's advocate is the author of the final book in this trilogy, Judge Richard A. Posner of the U. S. Court of Appeals, Seventh Circuit. *Breaking the Deadlock: The 2000 Election, the Constitution, and the Courts* is a formidable book.

Posner does not seem to grasp that the franchise is a tool of power.

Unlike Sabato and Rakove, Posner uses his first chapter to talk less about events and more about ideas. It is an exercise in the analysis of democratic theory (as understood by modern political scientists and economists of the rational choice persuasion), an explanation of representative democracy, and a history of the suffrage. This work would make a remarkable exercise in a seminar in political science, though it is cast very much in the direction of the rational elector being the educated person. Posner does not seem to grasp that the franchise is a tool of power, and that those having this tool are under great compulsion from those over whom they would rule, but the chapter is good enough to be interesting.

Posner's first chapter serves to set up the next chapter, "The Deadlocked Election." The second chapter's function is to show that there is no way that anyone could have known who had won Florida, if it were closely divided, and that the function of that exercise is to get us to the fight in the courts. In this respect, the reader is also invited to compare the combatant lawyers' recitations in Sabato and in the Kramer and Kaplan chapters in Rakove. All of this has one ultimate result. Judge Posner's book is a brief to defend the U.S. Supreme Court. *The Supreme Court was avoiding a genuine constitutional crisis.* In contrast to Karlan and Kramer, Judge Posner basically says that the Supreme Court did the right thing, for rather poor legal reasons; the Court could have found better reasons. This is an odd defense. Some reality should be introduced here. Judge Posner must know Chicago practice from his years of living there. He should be able easily to recognize a Chicago-style scam when a Court grants a stay in recounting, thus making it impossible for a candidate to find the votes that he claims are there and that are his.

Posner, too, thinks little of the equal protection rationale and wishes the Court had chosen other grounds (Article II). He himself does not take the equal protection argument all that seriously. But neither he nor the other lawyers note the sense in which the argument is fake. The Supreme Court made great work over the fact that standards for decision varied from county to county. Nonsense; the hard fact is that the administration of almost every public function that involves state government and local government has a strong element of devolution. Absence of administrative uniformity from one local government entity to another does not (yet) amount to a constitutional deficiency. The most powerful example exists in something far more important than the right to vote, the right to remain alive. The felony offense that imposes (or allows) a death penalty is provided in some state statutes. The people who initiate the indictment or information that leads a person to the possibility of death are public administrators, all of whom are lawyers called "prosecutors." We will wait a very long time for courts to impose uniformity of standards on prosecutorial decision making.

Posner says the *Bush v. Gore* decision belongs with "the Emancipation Proclamation and Korematsu … as a case in which the constitutional text (Article II, Section 1, clause 2) could be stretched … to enable a national crisis to be averted by constitutional means, albeit a much less ominous crisis than in the earlier examples" (Posner, 188). The comparison to the Emancipation Proclamation is factually specious and morally obtuse. Beyond that, however, Posner's defense is the source of danger. *It was the business of Congress, not the Court, to avoid or resolve crisis. The theory that the Court should preempt crisis resolution is a theory of legitimate judicial coup d'etat. We have not heard the last of it.*

Voting and Election Reform

The Brookings Institution
http://www.brook.edu
Go to the "Governmental Studies Research Areas" of the site, then to "Campaign Finance" and to "Election Reform." There, one can find a comprehensive source of essential cases, legal and policy materials, and legislative developments on election reform throughout the 2001 year. The site includes all of the key election reform projects initiated in the wake of the 2000 presidential election and *Bush v. Gore*.

The Cal Tech-MIT Voting Technology Project: Voting–What Is? What Could Be?
http://Web.mit.edu/newsoffice/voting
A team of social scientists and technologists studied the 2000 election and offer an analysis of what went wrong, why, and how voting technology can be improved in the future. Provides recommendations for immediate implementation.

The Center for Voting and Democracy
http://www.fairvote.org
A nonpartisan, nonprofit organization that studies how voting systems affect participation, representation, and governance. The site includes up-to-date information, background reports, legislation, and court cases pertaining to such topics as voting rights, redistricting, proportional representation, and elections.

The Constitution Project
http://www.constitutionproject.org/eri/index.htm
This bipartisan, nonprofit organization devoted to building consensus on controversial legal and constitutional issues launched an election-reform project in 2001, which resulted in a report and recommendations for action by Congress.

Jurist: The Legal Education Network
http://www.jurist.law.pitt.edu
Contains news, commentary, and legal analysis of election 2000, as well as the full U.S. Supreme Court opinions in *Bush v. Gore*.

The National Association for the Advancement of Colored People (NAACP)
http://www.naacp.org/work/voter/voting_rights.shtml
The sections on election reforms/voting rights and voter empowerment describe some of the current NAACP programs and activities, including pending litigation over the 2000 election.

The National Commission on Federal Election Reform
http://www.reformelections.org
This site contains the full report of the Ford-Carter national commission, as well as information about its membership, public hearings, and special task forces.

Pew Center on the States
http://www.stateline.org
Administered by the University of Richmond, this site is a great resource for up-to-date information about state governments and their public policies. Included are the reports on election reform from 22 states, as well as links to other reports and commissions on election reform.

The U.S. Commission on Civil Rights
http://www.usccr.gov
This site contains a report analyzing proposals for election reform and describing the recommendations of the commission for improving the election system. Also included is a report on voting irregularities in Florida during the 2000 election.

The U.S. Department of Justice: Civil Rights Division
http://www.usdoj.gov/crt/voting
The voting section contains detailed information about federal voting rights laws, including the Voting Rights Act and the National Voter Registration Act, and redistricting information.

Erratum

The Spring 2001 issue of Focus on Law Studies *mistakenly listed its volume number as Volume XVI, Number 1. It should have read Volume XVI, Number 2.*

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